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Human rights questions: human rights situations and reports of special rapporteurs and representatives

Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden and United Kingdom of Great Britain and Northern Ireland: draft resolution

Situation of human rights in the Democratic Republic of the Congo

The General Assembly,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights,[1] the International Covenants on Human Rights[2] and other human rights instruments,

Reaffirming that all States Members of the United Nations have an obligation to promote and protect human rights and fundamental freedoms,

Noting that the Democratic Republic of the Congo is a party to several international and regional human rights instruments and to several instruments pertaining to international humanitarian law,

Recalling resolutions on the subject, the most recent of which are its resolution 57/233 of 18 December 2002 and Commission on Human Rights resolution 2003/15 of 17 April 2003, as well as Security Council resolutions on the subject, the most recent of which is resolution 1493 (2003) of 28 July 2003,

Recalling also its decision to request the Special Rapporteurs of the Commission on Human Rights on the situation of human rights in the Democratic Republic of the Congo and on extrajudicial, summary or arbitrary executions and a member of the Working Group on Enforced or Involuntary Disappearances of the Commission to carry out a joint mission of investigation in the Democratic Republic

[1] Resolution 217 A (III).
[2] Resolution 2200 A (XXI), annex.

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of the Congo, while regretting that the security situation has not yet allowed such a mission,

Bearing in mind Security Council resolution 1325 (2000) of 31 October 2000 on women, peace and security,

Bearing also in mind Security Council resolution 1460 (2003) of 30 January 2003 on children and armed conflict, and the report of the Secretary-General of 10 November 2003 on children and armed conflict,[3]

Welcoming the Final Act of the inter-Congolese political negotiations signed in Sun City, South Africa, on 2 April 2003, and recalling also all ceasefire and peace agreements as well as disengagement plans,

Taking note of the second special report of the Secretary-General of 27 May 2003 on the United Nations Organization Mission in the Democratic Republic of the Congo,[4] the report of the Security Council mission to Central Africa, 7 to 16 June 2003, of 17 June 2003[5] and the reports of the United Nations High Commissioner for Human Rights of 13 February 2003[6] and on the events of 3 April 2003 in Drodro,[7]

Deeply concerned by the continuation of hostilities in the eastern part of the Democratic Republic of the Congo, particularly in North and South Kivu and Ituri, and by the grave violations of human rights and international humanitarian law that accompany them, as described in the above-mentioned reports,

Deploring the impunity that characterizes much of the fighting and the accompanying human rights abuses and humanitarian crises in the eastern Democratic Republic of the Congo,

1. *Welcomes*:

(a) The promulgation by the Head of State on 4 April 2003 of the Constitution that is to govern the country throughout the transition, the swearing of allegiance to the new Constitution by President Joseph Kabila on 7 April 2003, the installation on 17 July 2003 of the Government of National Unity and Transition in the Democratic Republic of the Congo, the inauguration of the National Assembly and the Senate on 22 July 2003 and the installation of the five Transitional Institutions on 28 August 2003;

(b) The signing on 18 March 2003 of a ceasefire agreement by the Governments of the Democratic Republic of the Congo and Uganda and six armed groups, which paved the way for the convening of the Ituri Pacification Commission from 4 to 14 April 2003 and the setting up of an interim administration in Ituri;

(c) The ceasefire agreement signed in Dar es Salaam on 16 May 2003, and the signing on 19 June 2003 of the Bujumbura Commitment by the Government of the Democratic Republic of the Congo, the Congolese Rally for Democracy and the Congolese Rally for Democracy-Liberation Movement;

[3] A/58/546-S/2003/1053.
[4] S/2003/566 and Corr.1.
[5] S/2003/653.
[6] See S/2003/216.
[7] S/2003/674, annex II.

(d) The abolition of the Military Order Court;

(e) The interim report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Democratic Republic of the Congo[8] and her visit to the country from 26 February to 10 March and from 26 August to 6 September 2003;

(f) The visit by the United Nations High Commissioner for Human Rights to the Democratic Republic of the Congo from 12 to 15 January 2003 and the action taken by his Office in the country;

(g) The consultations between the Secretary-General and the United Nations High Commissioner for Human Rights on ways of dealing with the problem of impunity in the Democratic Republic of the Congo, and takes note of the High Commissioner's proposal to establish an international body of inquiry to investigate serious violations of human rights and international humanitarian law;

(h) The extension of the mandate, the continuing presence and the increased deployment of the United Nations Organization Mission in the Democratic Republic of the Congo in support of the implementation of the Ceasefire Agreement signed at Lusaka,[9] the peace agreements signed at Pretoria[10] and Luanda and the relevant Security Council resolutions;

(i) The collaboration between the United Nations Organization Mission in the Democratic Republic of Congo and the Office of the United Nations High Commissioner for Human Rights on the establishment of national institutions and infrastructures to protect human rights as well as transitional justice mechanisms;

(j) The work of the Special Representative of the Secretary-General for the Democratic Republic of the Congo and Chief of the United Nations Organization Mission in the Democratic Republic of the Congo;

2. *Condemns*:

(a) The continuing violations of human rights, fundamental freedoms and international humanitarian law in the Democratic Republic of the Congo, particularly in Ituri, Kivu and other regions in the east of the country;

(b) The persistence, in the east of the country, of the armed violence and reprisals against the civilian population in the territories controlled by ex-rebel groups which now form part of the transitional government;

(c) All the massacres that have occurred in the province of Ituri, particularly the massacres at Drodro, and most recently on 6 October 2003 in Katchele, while supporting the efforts of the United Nations Organization Mission in the Democratic Republic of Congo and the Office of the United Nations High Commissioner for Human Rights to investigate them;

(d) The reported perpetration of acts of mutilation and cannibalism in the Mambasa region by forces of the Congolese Liberation Movement, the Congolese Rally for Democracy-National and the Union of Congolese Patriots;

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[8] See A/58/534.

[9] S/1999/815, annex.

[10] S/2002/914, annex.

(e) The cases of summary or arbitrary execution, disappearance, torture, harassment, unlawful arrest, widespread persecution and arbitrary detention for long periods;

(f) The widespread recourse to sexual violence against women and children, inter alia, as a means of warfare;

(g) The continuing recruitment and use of child soldiers by armed forces and groups in the territory of the Democratic Republic of the Congo which are contrary to international law;

(h) The impunity of those responsible for violations of human rights and international humanitarian law, and points out in this connection that the Democratic Republic of the Congo is a party to the Rome Statute of the International Criminal Court;[11]

(i) The illegal exploitation of the natural resources of the Democratic Republic of the Congo, in view of the link between that exploitation and the continuation of the conflict;

3. *Expresses its concern* regarding:

(a) The breaches of freedom of expression, opinion, association and assembly and the attacks on human rights defenders throughout the territory of the Democratic Republic of the Congo, in particular in the eastern part of the country;

(b) The continued suspension of the moratorium on the carrying out of the death penalty, in particular the death sentences passed on 7 January 2003 by the Military Order which had tried the persons accused of assassinating the former President of the Republic;

(c) The excessive accumulation and spread of small arms and the distribution, circulation and illicit trafficking of arms in the region and their negative impact on human rights;

(d) The increase in the number of refugees and displaced persons, in particular in the eastern part of the country;

(e) The continued insecurity, particularly in the east of the country in the zones held by armed groups, which seriously hampers the efforts of humanitarian organizations to gain access to people affected by the worrying humanitarian situation;

4. *Urges* all parties to the conflict in the Democratic Republic of the Congo:

(a) To cease, immediately, all military activities, including support for the armed groups allied to them, in order to facilitate, without delay, the re-establishment of the sovereignty, unity and territorial integrity of the Democratic Republic of the Congo;

(b) To implement the Bujumbura Commitment of 19 June 2003 immediately and unconditionally;

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[11] *Official Records of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, Rome, 15 June-17 July 1998*, vol. I: *Final documents* (United Nations publication, Sales No. E.02.I.5), sect. A.

(e) To implement the Dar es Salaam Agreement of 16 May 2003 fully and without delay and to cooperate with the Ituri Pacification Commission in overseeing the settlement of the conflict in the north-east part of the Democratic Republic of the Congo;

(d) To respect their obligations as regards the implementation of the Transitional Constitution;

(e) To allow free and secure access to all areas so as to permit and support investigations of the presumed serious violations of human rights and international human rights law, with a view to bringing those responsible to justice, and to cooperate fully to that end with national and international human rights protection mechanisms to investigate alleged human rights violations and breaches of international humanitarian law in the Democratic Republic of the Congo;

(f) To put an immediate end to the recruitment and use of child soldiers, which are in contravention of international law and the African Charter on the Rights and Welfare of the Child, with the understanding that under the Convention on the Rights of the Child[12] and the Optional Protocol thereto on the involvement of children in armed conflict,[13] persons under age eighteen are entitled to special protection, and to provide information without delay on measures taken to discontinue such practices;

(g) To meet the special needs of women and girls in post-conflict reconstruction as well as to ensure the full participation of women in all aspects of conflict resolution and peace processes, including peacekeeping, conflict management and peace-building, as a matter of priority;

(h) To implement all necessary measures to put an end to the widespread violations of human rights and to impunity, in particular with regard to the sexual violence against women and children;

(i) To protect human rights and to respect international humanitarian law, in particular by ensuring the safety of all civilians, and to take and implement all necessary measures to create conditions for the voluntary return of all refugees and displaced persons;

(j) To prevent conditions that might lead to flows of displaced persons in the territories of the Democratic Republic of the Congo and across its borders and to take and apply all necessary measures to establish conditions conducive to the voluntary return of refugees and displaced persons;

5. *Urges* the Government of National Unity and Transition to ensure that the protection of human rights and the establishment of a State based on the rule of law and of an independent judiciary are among its highest priorities, including the establishment of the necessary institutions as reflected in the Global and All-Inclusive Agreement on the Transition in the Democratic Republic of the Congo, signed at Pretoria on 17 December 2002;

6. *Calls upon* the Government of National Unity and Transition to take specific measures:

[12] Resolution 44/25, annex.
[13] Resolution 54/263, annex I.

(a) To strengthen the transitional institutions and to re-establish stability and the rule of law over the entire territory of the Democratic Republic of the Congo, thereby returning peace and progress to its people;

(b) To achieve the objectives of the transitional period as laid down in the Global and All-Inclusive Agreement, in particular the holding of free and transparent elections at all levels enabling the establishment of a democratic constitutional regime, and the formation of a restructured and integrated national army;

(c) To comply fully with its obligations under international human rights instruments and, accordingly, to continue to cooperate with United Nations mechanisms for the protection of human rights and further strengthen its cooperation with the Office of the United Nations High Commissioner for Human Rights in the Democratic Republic of the Congo;

(d) To carry on a comprehensive reform of the judicial system;

(e) To reinstate the moratorium on capital punishment and adhere to its commitment to progressively abolish the death penalty;

(f) To put an end to impunity and to ensure that those responsible for human rights violations and grave breaches of international humanitarian law are brought to justice in accordance with due process;

(g) To cooperate with the International Criminal Court and to continue to cooperate with the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994;

7. *Calls upon* the United Nations High Commissioner for Human Rights to keep it informed of the consultations between his/her Office and the Secretary-General concerning the ways in which to assist the transitional government of the Democratic Republic of the Congo in tackling the problem of impunity;

8. *Calls upon* the international community:

(a) To support the human rights field office in the Democratic Republic of the Congo in order to make possible the effective implementation of its programmes;

(b) To support the organization, at the appropriate time and under the aegis of the United Nations and the African Union, of an international conference on peace, security, democracy and development in the Great Lakes region of Africa, with the participation of all the Governments of the region and all other parties concerned, and to support the introduction of human rights and humanitarian issues as one of the main themes of this conference;

9. *Requests*:

(a) The Special Rapporteurs of the Commission on Human Rights on the situation of human rights in the Democratic Republic of the Congo and on extrajudicial, summary or arbitrary executions and a member of the Working Group on Enforced or Involuntary Disappearances of the Commission to carry out a

mission of investigation in the Democratic Republic of the Congo and to report to the Commission at its sixtieth session and to the General Assembly at its fifty-ninth session;

(b) The Secretary-General to give the Special Rapporteurs and the joint mission all necessary assistance to enable them to discharge their mandate fully;

(c) The United Nations High Commissioner for Human Rights to provide the technical skills needed by the joint mission to discharge its mandate;

(d) The Secretary-General to encourage the United Nations Organization Mission in the Democratic Republic of Congo to continue to raise the awareness of and provide training to all mission staff, including civilian police and military personnel, with respect to the relevant child protection standards, in particular when dealing with child soldiers, and to cooperate closely with the Special Representative of the Secretary-General for Children and Armed Conflict;

(e) The Secretary-General to encourage the United Nations Organization Mission in the Democratic Republic of Congo to continue to actively address the issues of gender, the full enjoyment of all human rights by women and the fight to eliminate violence against women and to provide adequate training to all Mission personnel in this regard;

10. *Decides* to continue to examine the situation of human rights in the Democratic Republic of the Congo and to request the Special Rapporteur to report to the General Assembly at its fifty-ninth session.